

REMARKS/ARGUMENTS

In view of the foregoing amendments and the following remarks, the applicant respectfully submits that the pending claims are not anticipated under 35 U.S.C. § 102 and are not rendered obvious under 35 U.S.C. § 103. Accordingly, it is believed that this application is in condition for allowance. **If, however, the Examiner believes that there are any unresolved issues, or believes that some or all of the claims are not in condition for allowance, the applicant respectfully requests that the Examiner contact the undersigned to schedule a telephone Examiner Interview before any further actions on the merits.**

The applicant will now address each of the issues raised in the outstanding Office Action. Before doing so, however, both the undersigned and John Pokotylo would like to thank Examiner Krishnan for courtesies extended during a telephone interview on August 12, 2008 (referred to as "the telephone interview"). The telephone interview is summarized here.

Telephone Interview Summary

This statement of the substance of the Interview summarizes the issues discussed on August 12, 2008 in a telephone interview. This Interview Summary is presented in the format suggested in MPEP § 713.04 by the Patent Office.

Date of Interview: August 12, 2008

Type of Interview: Telephone

Name of Participants:

- Examiner: Vivek Krishnan
- For Applicants: John C. Pokotylo
Leonard P. Linardakis

A. Exhibit(s) Shown: None

B. Claims discussed: 1, 12 and 19

C. References Discussed:

- Applicant's purportedly admitted prior art
- David Comer, "Internetworking with TCP/IP," (2000) Prentice Hall (pub) ("the Comer book")

D. Proposed Amendments discussed:

- Examiner Krishnan suggested amending the claims to more clearly indicate that the recited message was an **aggregated** message including the status of multiple protocols **as data included within the aggregated message.**

**E. Discussion of General Thrust
of the Principal Arguments**

- Applicant's representatives noted that neither the purportedly admitted prior art, nor the Comer book, teaches using a message including the status of at least two different protocols.

- Examiner Krishnan informed the applicant's representatives of his position that it was not clear that the recited message was an **aggregated** message including the status of multiple protocols. Examiner Krishnan suggested amending the claims to more clearly indicate that the recited message was

an **aggregated** message including the status of multiple protocols. The applicant's representations noted that unlike the proposed combination, the aggregated message **includes** the status information of at least two protocols, and that this status information may be **provided as data, rather than being inferred** from receipt or non-receipt of a message. Examiner Krishnan agreed that reciting that providing the status of multiple protocols over **as data included within the aggregated message** would more clearly distinguish the claims the cited art.

F. Other Pertinent Matters Discussed: None

G. General Results/Outcome of Interview

- The applicant's representatives agreed that the amendments proposed above would likely be accepted. Examiner Krishnan stated that he understood the nature of the claims and the differences with the references cited and recommended that the applicant file an RCE with the proposed amendments.

Objections

Claims 16, 17, 42 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 16 and 17 depend, indirectly, from claim 12, and claims 42 and 43 depend, indirectly, from claim 38. Since, however, claims 12 and 38, as amended, are

allowable over the cited art for the reasons discussed below, these claims have not been rewritten in independent form at this time.

Rejections under 35 U.S.C. § 102

Claims 1, 10, 27, 36, 48 and 49 stand rejected under 35 U.S.C. § 102(b) as being anticipated by purportedly admitted prior art. In addition, claims 1, 10, 19, 27, 36, 45, 48 and 49 stand rejected under 35 U.S.C. § 102(b) as being anticipated by David Comer, Internetworking with TCP/IP, (2000) Prentice Hall (pub) ("the Comer book"). The applicant respectfully requests that the Examiner reconsider and withdraw this ground of rejection in view of the following.

Independent claims 1, 19, 27 and 45 have been amended to recite that the recited message is an **aggregated** message including the status of the at least two protocols **as data included within the aggregated message**. Neither the purportedly admitted prior art, nor the Comer book, teaches using a message including the status of at least two different protocols. During the telephone interview, the Examiner agreed that amending the claims as discussed would overcome the cited references. Thus, in view of the foregoing amendments, claims 1, 19, 27 and 45, as amended, are not anticipated by either the purportedly admitted prior art or the Comer book. Since claims 10, 48 and 49 depend from claim 1, and since claim 36 depends from claim 27, these claims are similarly not anticipated by the cited references.

Rejections under 35 U.S.C. § 103

Claims 2-9, 11, 28-35 and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over purportedly admitted prior art and further in view of Sandick, et al., "Internet-Draft Fast Liveness Protocol," (February 2000) ("the Sandick paper"). The applicant respectfully requests that the Examiner reconsider and withdraw this ground of rejection in view of the following.

Claims 2-9 and 11 directly or indirectly depend from independent claim 1, and claims 28-35 and 37 directly or indirectly depend from claim 27. The purported teachings of the Sandick paper do not compensate for the deficiencies of the purportedly admitted prior art with respect to claims 1 and 27, as amended (discussed above), regardless of the scope of the purported teachings in the Sandick paper, and regardless of the absence or presence of an obvious reason to combine these references. Consequently, claims 2-9, 11, 28-35 and 37 are not rendered obvious by the cited references for at least this reason.

Claims 2-9, 11-15, 20-26, 28-35, 37-41, 46 and 47 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Comer book and further in view of the Sandick paper. The applicant respectfully requests that the Examiner reconsider and withdraw this ground of rejection in view of the following.

First, claims 2-9 and 11 directly or indirectly depend from claim 1, claims 20 and 21 depend from claim 19, claims 28-35 and 37 directly or indirectly depend from claim 27, and claims 46 and 47 directly or

indirectly depend from claim 45. The purported teachings of the Sandick paper would not compensate for the deficiencies of the Comer book with respect to claims 1 19, 27 and 45, as amended (discussed above), regardless of the scope of the purported teachings in the Sandick paper, and regardless of the absence or presence of an obvious reason to combine these references. Consequently, claims 2-9, 11, 20, 21, 28-35, 37, 46 and 47 are not rendered obvious by the cited references for at least this reason.

Second, independent claims 12, 22 and 38 have been amended to more clearly indicate that the recited message was an **aggregated** message including the status of the at least two protocols **as data included within the aggregated message**. The Comer book does not teach or suggest using a message including the status of at least two different protocols. During the telephone interview, the Examiner agreed that amending the claims to clearly indicate that the recited message was an **aggregated** message including the status of the at least two protocols **as data included within the aggregated message** would overcome the Comer book. Furthermore, the purported teachings of the Sandick paper would not compensate for the deficiencies of the Comer book with respect to claims 12, 22 and 38, as amended, regardless of the scope of the purported teachings in the Sandick paper, and regardless of the absence or presence of an obvious reason to combine these references. Thus, in view of the foregoing amendments, claims 12, 22 and 38, as amended, are not rendered obvious by the cited references. Since claims 13-15 directly or indirectly depend from claim 12, since claims 23-26 directly or

indirectly depend from claim 22, and since claims 39-41 directly or indirectly depend from claim 38, these claims are similarly not rendered obvious by the cited references.

Claims 18 and 44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Comer book and the Sandick paper, in view of U.S. Patent No. 5,349,642 ("the Kingdon patent"). The applicant respectfully requests that the Examiner reconsider and withdraw this ground of rejection in view of the following.

Claims 18 and 44 indirectly depend from independent claims 12 and 38, respectively. The purported teachings of the Sandick paper and the Kingdon patent would not compensate for the deficiencies of the Comer book with respect to claims 12 and 38, as amended (discussed above), regardless of the scope of the purported teachings in the Sandick paper and the Kingdon patent, and regardless of the absence or presence of an obvious reason to combine these references. Consequently, claims 18 and 44 are not rendered obvious by the cited references for at least this reason.

Conclusion


In view of the foregoing amendments and remarks, the applicant respectfully submits that the pending claims are in condition for allowance. Accordingly, the applicant requests that the Examiner pass this application to issue.

Any arguments made in this amendment pertain **only** to the specific aspects of the invention **claimed**. Any claim

amendments or cancellations, and any arguments, are made ***without prejudice to, or disclaimer of***, the applicant's right to seek patent protection of any unclaimed (e.g., narrower, broader, different) subject matter, such as by way of a continuation or divisional patent application for example.

Respectfully submitted,

August 29, 2008



Leonard P. Linardakis, Attorney
Reg. No. 60,441
Tel.: (732) 936-1400

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper (and any accompanying paper(s)) is being facsimile transmitted to the United States Patent Office on the date shown below.

Leonard P. Linardakis

Type or print name of person signing certification


Signature

August 29, 2008
Date